

**AMENDMENT TO H.R. 3355**  
**OFFERED BY MS. GINNY BROWN-WAITE OF**  
**FLORIDA**

Strike “this Act” each place such term appears, and insert “titles I and II and this title”, in the following places: Page 24, line 4; Page 25, lines 1 and 2; Page 25, line 15.

At the end of the bill, add the following new title (and conform the table of contents accordingly):

**1 TITLE IV—REINSURANCE COV-**  
**2 ERAGE FOR STATE NATURAL**  
**3 CATASTROPHE INSURANCE**  
**4 PROGRAMS**

**5 SEC. 401. SHORT TITLE.**

**6** This title may be cited as the “Homeowners Insur-  
**7** ance Protection Act of 2007”.

**8 SEC. 402. NATIONAL COMMISSION ON CATASTROPHE PREP-**  
**9 ARATION AND PROTECTION.**

**10** (a) ESTABLISHMENT.—The Secretary of the Treas-  
**11** ury shall establish a commission to be known as the Na-  
**12** tional Commission on Catastrophe Preparation and Pro-  
**13** tection.

1 (b) DUTIES.—The Commission shall meet for the  
2 purpose of advising the Secretary regarding the estimated  
3 loss costs associated with the contracts for reinsurance  
4 coverage available under this title and carrying out the  
5 functions specified in this title, including—

6 (1) the development and implementation of  
7 public education concerning the risks posed by nat-  
8 ural catastrophes;

9 (2) the development and implementation of pre-  
10 vention, mitigation, recovery, and rebuilding stand-  
11 ards that better prepare and protect the United  
12 States from catastrophes;

13 (3) the establishment of requirements under  
14 section 406(e) to ensure that cost savings resulting  
15 from this title inure to the benefit of consumers; and

16 (4) conducting continuous analysis of the effec-  
17 tiveness of this title and recommending improve-  
18 ments to the Congress so that the costs of providing  
19 catastrophe protection are decreased and so that the  
20 United States is better prepared.

21 (c) MEMBERS.—

22 (1) APPOINTMENT AND QUALIFICATION.—The  
23 Commission shall consist of 9 members, as follows:

1 (A) HOMELAND SECURITY MEMBER.—The  
2 Secretary of Homeland Security or the Sec-  
3 retary's designee.

4 (B) APPOINTED MEMBERS.—8 members  
5 appointed by the Secretary, who shall consist  
6 of—

7 (i) one individual who is an actuary;

8 (ii) one individual who is employed in  
9 engineering;

10 (iii) one individual representing the  
11 scientific community;

12 (iv) one individual representing prop-  
13 erty and casualty insurers;

14 (v) one individual representing rein-  
15 surers;

16 (vi) one individual who is a member or  
17 former member of the National Association  
18 of Insurance Commissioners; and

19 (vii) two individuals who are con-  
20 sumers.

21 (2) PREVENTION OF CONFLICTS OF INTER-  
22 EST.—Members shall have no personal or financial  
23 interest at stake in the deliberations of the Commis-  
24 sion.

1 (d) TREATMENT OF NON-FEDERAL MEMBERS.—

2 Each member of the Commission who is not otherwise em-  
3 ployed by the Federal Government shall be considered a  
4 special Government employee for purposes of sections 202  
5 and 208 of title 18, United States Code.

6 (e) EXPERTS AND CONSULTANTS.—The Commission  
7 may procure temporary and intermittent services from in-  
8 dividuals or groups recognized as experts in the fields of  
9 meteorology, seismology, vulcanology, geology, structural  
10 engineering, wind engineering, and hydrology, and other  
11 fields, under section 3109(b) of title 5, United States  
12 Code, but at a rate not in excess of the daily equivalent  
13 of the annual rate of basic pay payable for level V of the  
14 Executive Schedule, for each day during which the indi-  
15 vidual procured is performing such services for the Com-  
16 mission. The Commission may also procure, and the Con-  
17 gress encourages the Commission to procure, experts from  
18 universities, research centers, foundations, and other ap-  
19 propriate organizations who could study, research, and de-  
20 velop methods and mechanisms that could be utilized to  
21 strengthen structures to better withstand the perils cov-  
22 ered by this title.

23 (f) COMPENSATION.—Each member of the Commis-  
24 sion who is not an officer or employee of the Federal Gov-  
25 ernment shall be compensated at a rate of basic pay pay-

1 able for level V of the Executive Schedule, for each day  
2 (including travel time) during which such member is en-  
3 gaged in the performance of the duties of the Commission.  
4 All members of the Commission who are officers or em-  
5 ployees of the United States shall serve without compensa-  
6 tion in addition to that received for their services as offi-  
7 cers or employees of the United States.

8 (g) OBTAINING DATA.—The Commission and the  
9 Secretary may solicit loss exposure data and such other  
10 information either deems necessary to carry out its re-  
11 sponsibilities from governmental agencies and bodies and  
12 organizations that act as statistical agents for the insur-  
13 ance industry. The Commission and the Secretary shall  
14 take such actions as are necessary to ensure that informa-  
15 tion that either deems is confidential or proprietary is dis-  
16 closed only to authorized individuals working for the Com-  
17 mission or the Secretary. No company which refuses to  
18 provide information requested by the Commission or the  
19 Secretary may participate in the program for reinsurance  
20 coverage authorized under this title, nor may any State  
21 insurance or reinsurance program participate if any gov-  
22 ernmental agency within that State has refused to provide  
23 information requested by the Commission or the Sec-  
24 retary.

25 (h) FUNDING.—

1           (1) AUTHORIZATION OF APPROPRIATIONS.—

2       There is authorized to be appropriated—

3           (A) \$10,000,000 for fiscal year 2008 for  
4       the initial expenses in establishing the Commis-  
5       sion and the initial activities of the Commission  
6       that cannot timely be covered by amounts ob-  
7       tained pursuant to section 406(b)(6)(B)(iii), as  
8       determined by the Secretary;

9           (B) such additional sums as may be nec-  
10      essary to carry out subsequent activities of the  
11      Commission;

12          (C) \$10,000,000 for fiscal year 2008 for  
13      the initial expenses of the Secretary in carrying  
14      out the program authorized under section 403;  
15      and

16          (D) such additional sums as may be nec-  
17      essary to carry out subsequent activities of the  
18      Secretary under this title.

19       (2) OFFSET.—The Secretary shall provide, to  
20      the maximum extent practicable, that an amount  
21      equal to any amount appropriated under paragraph  
22      (1) is obtained from purchasers of reinsurance cov-  
23      erage under this title and deposited in the Fund es-  
24      tablished under section 408. Such amounts shall be  
25      obtained by inclusion of a provision for the Sec-

1       retary's and the Commission's expenses incorporated  
2       into the pricing of the contracts for such reinsurance  
3       coverage, pursuant to section 406(b)(6)(B)(iii).

4       (i) TERMINATION.—The Commission shall terminate  
5       upon the effective date of the repeal under section 411(c).

6       **SEC. 403. PROGRAM AUTHORITY.**

7       (a) IN GENERAL.—The Secretary of the Treasury, in  
8       consultation with the Secretary of Homeland Security,  
9       shall carry out a program under this title to improve the  
10      availability and affordability of homeowners protection  
11      coverage by making available for purchase, only by eligible  
12      State programs, contracts for reinsurance coverage under  
13      section 406.

14      (b) PURPOSE.—The program shall be designed to  
15      make reinsurance coverage under this title available—

16              (1) to improve the availability and affordability  
17              of homeowners' insurance for the purpose of facili-  
18              tating the pooling, and spreading the risk, of cata-  
19              strophic financial losses from natural catastrophes;

20              (2) to improve the solvency and capacity of  
21              homeowners' insurance markets;

22              (3) to encourage the development and imple-  
23              mentation of mitigation, prevention, recovery, and  
24              rebuilding standards; and

1           (4) to recommend methods to continuously im-  
2       prove the way the United States reacts and responds  
3       to catastrophes, including improvements to the  
4       HELP Fund established under section 408.

5       (c) CONTRACT PRINCIPLES.—Under the program  
6       under this title, the Secretary shall offer reinsurance cov-  
7       erage through contracts with covered purchasers, which  
8       contracts—

9           (1) shall not displace or compete with the pri-  
10      vate insurance or reinsurance markets or the capital  
11      market;

12           (2) shall minimize the administrative costs of  
13      the Federal Government; and

14           (3) shall provide coverage based solely on in-  
15      sured losses within the State for the eligible State  
16      program purchasing the contract.

17   **SEC. 404. QUALIFIED LINES OF COVERAGE.**

18       Each contract for reinsurance coverage made avail-  
19      able under this title shall provide insurance coverage  
20      against residential property losses to homes (including  
21      dwellings owned under condominium and cooperative own-  
22      ership arrangements) and the contents of apartment  
23      buildings.



1 **SEC. 405. COVERED PERILS.**

2 Each contract for reinsurance coverage made avail-  
3 able under this title shall cover losses insured or reinsured  
4 by the eligible State program purchasing the contract that  
5 are proximately caused by—

6 (1) earthquakes;

7 (2) perils ensuing from earthquakes, including  
8 fire and tsunamis;

9 (3) tropical cyclones having maximum sustained  
10 winds of at least 74 miles per hour, including hurri-  
11 canes and typhoons;

12 (4) tornadoes;

13 (5) volcanic eruptions;

14 (6) catastrophic winter storms; and

15 (7) any other natural catastrophe (not including  
16 any flood) insured or reinsured under the eligible  
17 State program for which reinsurance coverage under  
18 section 406 is provided.

19 The Secretary shall, by regulation, define the natural ca-  
20 tastrophe perils under this section.

21 **SEC. 406. CONTRACTS FOR REINSURANCE COVERAGE FOR**  
22 **ELIGIBLE STATE PROGRAMS.**

23 (a) ELIGIBLE STATE PROGRAMS.—A program shall  
24 be eligible to purchase a contract under this section for  
25 reinsurance coverage under this title only if the State enti-  
26 ty authorized to make such determinations certifies to the

1 Secretary that the program complies with the following re-  
2 quirements:

3 (1) PROGRAM DESIGN.—The program shall be a  
4 State-operated—

5 (A) insurance program that—

6 (i) offers coverage for homes (which  
7 may include dwellings owned under condo-  
8 minium and cooperative ownership ar-  
9 rangements) and the contents of apart-  
10 ments to State residents; and

11 (ii) is authorized by State law; or

12 (B) reinsurance program that is designed  
13 to improve private insurance markets that offer  
14 coverage for homes (which may include dwell-  
15 ings owned under condominium and cooperative  
16 ownership arrangements) and the contents of  
17 apartments because of a finding by the State  
18 insurance commissioner or other State entity  
19 authorized to make such a determination that  
20 such program is necessary in order to provide  
21 for the continued availability of such residential  
22 coverage for all residents.

23 (2) OPERATION.—The program shall meet the  
24 following requirements:

1 (A) A majority of the members of the gov-  
2 erning body of the program shall be public offi-  
3 cials.

4 (B) The State shall have a financial inter-  
5 est in the program, which shall not include a  
6 program authorized by State law or regulation  
7 that requires insurers to pool resources to pro-  
8 vide property insurance coverage for covered  
9 perils.

10 (C) If the State has at any time appro-  
11 priated amounts from the State fund for the  
12 State program for any purpose other than pay-  
13 ments under the program, the State shall have  
14 repaid such amounts to the State fund, together  
15 with interest on such amounts.

16 (3) TAX STATUS.—The program shall be struc-  
17 tured and carried out in a manner so that the pro-  
18 gram is exempt from all Federal taxation.

19 (4) COVERAGE.—The program shall cover all  
20 perils specified in section 405.

21 (5) EARNINGS.—The program may not provide  
22 for, nor shall have ever made, any redistribution of  
23 any part of any net profits of the program to any  
24 insurer that participates in the program.

1           (6) PREVENTION AND MITIGATION.—The pro-  
2       gram shall include prevention and mitigation provi-  
3       sions that require that not less \$10,000,000 and not  
4       more than 35 percent of the net investment income  
5       of the State insurance or reinsurance program be  
6       used for programs to mitigate losses from natural  
7       catastrophes for which the State insurance or rein-  
8       surance program was established. For purposes of  
9       this paragraph, prevention and mitigation shall in-  
10      clude methods to reduce losses of life and property,  
11      including appropriate measures to adequately re-  
12      flect—

13           (A) encouragement of awareness about the  
14      risk factors and what can be done to eliminate  
15      or reduce them;

16           (B) location of the risk, by giving careful  
17      consideration of the natural risks for the loca-  
18      tion of the property before allowing building  
19      and considerations if structures are allowed;  
20      and

21           (C) construction relative to the risk and  
22      hazards, which act upon—

23           (i) State mandated building codes ap-  
24      propriate for the risk;

1 (ii) adequate enforcement of the risk-  
2 appropriate building codes;

3 (iii) building materials that prevent or  
4 significantly lessen potential damage from  
5 the natural catastrophes;

6 (iv) building methods that prevent or  
7 significantly lessen potential damage from  
8 the natural catastrophes; and

9 (v) a focus on prevention and mitiga-  
10 tion for any substantially damaged struc-  
11 ture, with an emphasis on how structures  
12 can be retrofitted so as to make them  
13 building code compliant.

14 (7) REQUIREMENTS REGARDING COVERAGE.—

15 (A) IN GENERAL.—The program—

16 (i) may not, except for charges or as-  
17 sessments related to post-event financing  
18 or bonding, involve cross-subsidization be-  
19 tween any separate property and casualty  
20 lines covered under the program unless the  
21 elimination of such activity in an existing  
22 program would negatively impact the eligi-  
23 bility of the program to purchase a con-  
24 tract for reinsurance coverage under this  
25 title pursuant to paragraph (3);

1           (ii) shall include provisions that au-  
2           thorize the State insurance commissioner  
3           or other State entity authorized to make  
4           such a determination to terminate the pro-  
5           gram if the insurance commissioner or  
6           other such entity determines that the pro-  
7           gram is no longer necessary to ensure the  
8           availability of homeowners' insurance for  
9           all residents of the State; and

10          (iii) shall provide that, for any insur-  
11          ance coverage for homes (which may in-  
12          clude dwellings owned under condominium  
13          and cooperative ownership arrangements)  
14          and the contents of apartments that is  
15          made available under the State insurance  
16          program and for any reinsurance coverage  
17          for such insurance coverage made available  
18          under the State reinsurance program, the  
19          premium rates charged shall be amounts  
20          that, at a minimum, are sufficient to cover  
21          the full actuarial costs of such coverage,  
22          based on consideration of the risks involved  
23          and accepted actuarial and rate making  
24          principles, anticipated administrative ex-

1                   penses, and loss and loss-adjustment ex-  
2                   penses.

3                   (B) APPLICABILITY.—This paragraph shall  
4                   apply after the expiration of the 2-year period  
5                   beginning on the date of the enactment of this  
6                   Act.

7                   (8) PROHIBITION OF COMPETITION WITH PRI-  
8                   VATE MARKET.—Any insurance or reinsurance cov-  
9                   erage, as applicable, made available through the  
10                  State program shall not supplant coverage that is  
11                  otherwise reasonably available and affordable in the  
12                  private market.

13                  (9) OTHER QUALIFICATIONS.—

14                  (A) IN GENERAL.—The State program  
15                  shall (for the year for which the coverage is in  
16                  effect) comply with regulations that shall be  
17                  issued under this paragraph by the Secretary,  
18                  in consultation with the Commission. The regu-  
19                  lations shall establish criteria for State pro-  
20                  grams to qualify to purchase reinsurance under  
21                  this section, which are in addition to the re-  
22                  quirements under the other paragraphs of this  
23                  subsection.

1 (B) CONTENTS.—The regulations issued  
2 under this paragraph shall include requirements  
3 that—

4 (i) the State program shall have pub-  
5 lic members on its board of directors or  
6 have an advisory board with public mem-  
7 bers;

8 (ii) the State program provide ade-  
9 quate insurance or reinsurance protection,  
10 as applicable, for the perils covered, which  
11 shall include a range of deductibles and  
12 premium costs that reflect the applicable  
13 risks to eligible properties;

14 (iii) insurance or reinsurance cov-  
15 erage, as applicable, provided by the State  
16 program is made available on a non-  
17 discriminatory basis to all qualifying resi-  
18 dents;

19 (iv) any new construction, substantial  
20 rehabilitation, and renovation insured or  
21 reinsured by the program complies with  
22 applicable State or local government build-  
23 ing, fire, and safety codes;

24 (v) the State, or appropriate local gov-  
25 ernments within the State, have in effect



1 and enforce nationally recognized model  
2 building, fire, and safety codes and con-  
3 sensus-based standards that offer risk re-  
4 sponsive resistance that is substantially  
5 equivalent or greater than the resistance to  
6 earthquakes or high winds;

7 (vi) the State has taken actions to es-  
8 tablish an insurance rate structure that  
9 takes into account measures to mitigate in-  
10 surance losses;

11 (vii) there are in effect, in such State,  
12 laws or regulations sufficient to prohibit  
13 price gouging, during the term of reinsur-  
14 ance coverage under this title for the State  
15 program in any disaster area located with-  
16 in the State; and

17 (viii) the State program complies with  
18 such other requirements that the Secretary  
19 considers necessary to carry out the pur-  
20 poses of this title.

21 (b) TERMS OF CONTRACTS.—Each contract under  
22 this section for reinsurance coverage under this title shall  
23 be subject to the following terms and conditions:

1           (1) MATURITY.—The term of the contract shall  
2       not exceed 1 year or such other term as the Sec-  
3       retary may determine.

4           (2) PAYMENT CONDITION.—The contract shall  
5       authorize claims payments only for eligible losses to  
6       the eligible State program purchasing the coverage.

7           (3) RETAINED LOSSES REQUIREMENT.—For  
8       each event of a covered peril, the contract shall  
9       make a payment for the event only if the total  
10      amount of insurance claims for losses, which are  
11      covered by qualified lines, occur to properties located  
12      within the State covered by the contract, and that  
13      result from insured losses (as such term is defined  
14      in section 409) for the State program, exceeds the  
15      amount of retained losses provided under the con-  
16      tract (pursuant to section 407(a)) purchased by the  
17      eligible State program.

18          (4) MULTIPLE EVENTS.—The contract shall  
19      cover any eligible losses from one or more covered  
20      events that may occur during the term of the con-  
21      tract and shall provide that if multiple events occur,  
22      the retained losses requirement under paragraph (3)  
23      shall apply on a calendar year basis, in the aggre-  
24      gate and not separately to each individual event.

1           (5) TIMING OF ELIGIBLE LOSSES.—Eligible  
2       losses under the contract shall include only insur-  
3       ance claims for property covered by qualified lines  
4       that are reported to the eligible State program with-  
5       in the 3-year period beginning upon the event or  
6       events for which payment under the contract is pro-  
7       vided.

8           (6) PRICING.—

9           (A) DETERMINATION.—The price of rein-  
10       surance coverage under the contract shall be an  
11       amount established by the Secretary as follows:

12           (i) RECOMMENDATIONS.—The Sec-  
13       retary shall take into consideration the rec-  
14       ommendations of the Commission in estab-  
15       lishing the price, but the price may not be  
16       less than the amount recommended by the  
17       Commission.

18           (ii) FAIRNESS TO TAXPAYERS.—The  
19       price shall be established at a level that is  
20       designed to reflect the risks and costs  
21       being borne under each reinsurance con-  
22       tract issued under this title and that takes  
23       into consideration empirical models of nat-  
24       ural disasters and the capacity of private

1 markets to absorb insured losses from nat-  
2 ural disasters.

3 (iii) SELF-SUFFICIENCY.—The rates  
4 for reinsurance coverage shall be estab-  
5 lished at a level that annually produces ex-  
6 pected premiums that shall be sufficient to  
7 pay the expected annualized cost of all  
8 claims, loss adjustment expenses, and all  
9 administrative costs of reinsurance cov-  
10 erage offered under this section.

11 (B) COMPONENTS.—The price shall consist  
12 of the following components:

13 (i) RISK-BASED PRICE.—A risk-based  
14 price, which shall reflect the anticipated  
15 annualized payout of the contract accord-  
16 ing to the actuarial analysis and rec-  
17 ommendations of the Commission.

18 (ii) RISK LOAD.—A risk load in an  
19 amount that is not less than the risk-based  
20 price under clause (i). In establishing risk  
21 loads under this clause, the Secretary shall  
22 take into consideration comparable private  
23 risk loads.

24 (iii) ADMINISTRATIVE COSTS.—A sum  
25 sufficient to provide for the operation of

1                   the Commission and the administrative ex-  
2                   penses incurred by the Secretary in car-  
3                   rying out this title.

4                   (7) INFORMATION.—The contract shall contain  
5                   a condition providing that the Commission may re-  
6                   quire the State program that is covered under the  
7                   contract to submit to the Commission all informa-  
8                   tion on the State program relevant to the duties of  
9                   the Commission, as determined by the Secretary.

10                  (8) ADDITIONAL CONTRACT OPTION.—The con-  
11                  tract shall provide that the purchaser of the contract  
12                  may, during the term of such original contract, pur-  
13                  chase additional contracts from among those offered  
14                  by the Secretary at the beginning of the term, sub-  
15                  ject to the limitations under section 407, at the  
16                  prices at which such contracts were offered at the  
17                  beginning of the term, prorated based upon the re-  
18                  maining term as determined by the Secretary. Such  
19                  additional contracts shall provide coverage beginning  
20                  on a date 15 days after the date of purchase but  
21                  shall not provide coverage for losses for an event  
22                  that has already occurred.

23                  (9) OTHERS.—The contract shall contain such  
24                  other terms as the Secretary considers necessary to

1 carry out this title and to ensure the long-term fi-  
2 nancial integrity of the program under this title.

3 (c) PRIVATE SECTOR RIGHT TO PARTICIPATE.—

4 (1) ESTABLISHMENT OF COMPETITIVE PROCE-  
5 DURE.—The Secretary shall establish, by regulation,  
6 a competitive procedure under this subsection that  
7 provides qualified entities an opportunity, on a basis  
8 consistent with the contract cycle established under  
9 this title by the Secretary, to offer to provide, in lieu  
10 of reinsurance coverage under this section, reinsur-  
11 ance coverage that is substantially similar to cov-  
12 erage otherwise made available under this section.

13 (2) COMPETITIVE PROCEDURE.—Under the  
14 procedure established under this subsection—

15 (A) the Secretary shall establish criteria  
16 for private insurers, reinsurers, and capital  
17 market companies, and consortia of such enti-  
18 ties to be treated as qualified entities for pur-  
19 poses of this subsection, which criteria shall re-  
20 quire such an entity to have at all times capital  
21 sufficient to satisfy the terms of the reinsurance  
22 contracts and shall include such other industry  
23 and credit rating standards as the Secretary  
24 considers appropriate;

1 (B) not less than 30 days before the begin-  
2 ning of each contract cycle during which any re-  
3 insurance coverage under this section is to be  
4 made available, the Secretary may request pro-  
5 posals and shall publish in the Federal Register  
6 the rates and terms for contracts for reinsur-  
7 ance coverage under this section that are to be  
8 made available during such contract cycle;

9 (C) the Secretary shall provide qualified  
10 entities a period of not less than 10 days (which  
11 shall terminate not less than 20 days before the  
12 beginning of the contract cycle) to submit to  
13 the Secretary a written expression of interest in  
14 providing reinsurance coverage in lieu of the  
15 coverage otherwise to be made available under  
16 this section;

17 (D) the Secretary shall provide any quali-  
18 fied entity submitting an expression of interest  
19 during the period referred to in subparagraph  
20 (C) a period of not less than 20 days (which  
21 shall terminate before the beginning of the con-  
22 tract cycle) to submit to the Secretary an offer  
23 to provide, in lieu of the reinsurance coverage  
24 otherwise to be made available under this sec-

1           tion, coverage that is substantially similar to  
2           such coverage;

3           (E) if the Secretary determines that an  
4           offer submitted during the period referred to in  
5           subparagraph (D) is a bona fide offer to pro-  
6           vide reinsurance coverage during the contract  
7           cycle at rates and terms that are substantially  
8           similar to the rates and terms for reinsurance  
9           coverage otherwise to be provided under this  
10          section by the Secretary, the Secretary shall ac-  
11          cept the offer (if still outstanding) and, not-  
12          withstanding any other provision of this title,  
13          provide for such entity to make reinsurance cov-  
14          erage available in accordance with the offer;  
15          and

16          (F) if the Secretary accepts an offer pur-  
17          suant to subparagraph (E) to make reinsurance  
18          coverage available, notwithstanding any other  
19          provision of this title, the Secretary shall re-  
20          duce, to an equivalent extent, the amount of re-  
21          insurance coverage available under this section  
22          during the contract cycle to which the offer re-  
23          lates, unless and until the Secretary determines  
24          that the entity is not complying with the terms  
25          of the accepted offer.



1 (d) PARTICIPATION BY MULTI-STATE CATASTROPHE  
2 FUND PROGRAMS.—Nothing in this title shall prohibit the  
3 creation of multi-State catastrophe insurance or reinsur-  
4 ance programs, or the participation by such programs in  
5 the program established pursuant to section 403. The Sec-  
6 retary shall, by regulation, apply the provisions of this title  
7 to multi-State catastrophe insurance and reinsurance pro-  
8 grams.

9 (e) REQUIREMENT FOR INSURERS TO PASS  
10 THROUGH SAVINGS TO CONSUMERS.—Notwithstanding  
11 any other provision of this title, a State program shall not  
12 be eligible to purchase a contract for reinsurance coverage  
13 made available under this title unless such State has in  
14 effect such laws, regulations, or other requirements, as the  
15 Secretary shall by regulation require, that—

16 (1) to the extent that reinsurance coverage  
17 made available under the program under this title  
18 results in any cost savings in providing insurance  
19 coverage for risks in such State, such cost savings  
20 be reflected in premium rates charged to consumers  
21 for such coverage; and

22 (2) the State take such actions as the Secretary  
23 considers appropriate to ensure that the requirement  
24 under paragraph (1) is carried out and enforced.

1 **SEC. 407. TREATMENT OF INSURED LOSSES AND MAXIMUM**  
2 **FEDERAL LIABILITY.**

3 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—In  
4 making reinsurance coverage available under this title, the  
5 Secretary shall make available for purchase contracts for  
6 such coverage that require the sustainment of retained  
7 losses from covered perils (as required under section  
8 406(b)(3) for payment of eligible losses) in various  
9 amounts, as the Secretary, in consultation with the Com-  
10 mission, determines appropriate and subject to the re-  
11 quirements under subsection (b).

12 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

13 (1) AMOUNT.—Subject to paragraph (2) and  
14 notwithstanding any other provision of this title, a  
15 contract for reinsurance coverage under section 406  
16 for an eligible State program that offers insurance  
17 or reinsurance coverage described in subparagraph  
18 (A) or (B), respectively, of section 406(a)(1) may  
19 not be made available or sold unless the contract re-  
20 quires that the State program sustain an amount of  
21 retained losses from covered perils in the following  
22 amount:

23 (A) IN GENERAL.—The State program  
24 shall sustain an amount of retained losses of  
25 not less than the greater of—

1 (i) the claims-paying capacity of the  
2 eligible State program, as determined by  
3 the Secretary; and

4 (ii) an amount, determined by the  
5 Secretary in consultation with the Commis-  
6 sion, that is the amount equal to the eligi-  
7 ble losses projected to be incurred once  
8 every 200 years on an annual basis from  
9 covered perils.

10 (B) TRANSITION RULE FOR NEW PRO-  
11 GRAMS.—

12 (i) 200-YEAR EVENT.—The Secretary  
13 may provide that, in the case of an eligible  
14 State program that, after the date of the  
15 enactment of this Act, commences offering  
16 insurance or reinsurance coverage, during  
17 the 7-year period beginning on the date  
18 that reinsurance coverage under section  
19 406 is first made available, the minimum  
20 level of retained losses applicable under  
21 this paragraph shall be the amount deter-  
22 mined for the State under subparagraph  
23 (A)(i), except that such minimum level  
24 shall be adjusted annually as provided in  
25 clause (ii) of this subparagraph.

1 (ii) ANNUAL ADJUSTMENT.—Each an-  
2 nual adjustment under this clause shall in-  
3 crease the minimum level of retained losses  
4 applicable under this subparagraph to an  
5 eligible State program described in clause  
6 (i) in a manner such that—

7 (I) during the course of such 7-  
8 year period, the applicable minimum  
9 level of retained losses approaches the  
10 minimum level that, under subpara-  
11 graph (A)(ii), will apply to the eligible  
12 State program upon the expiration of  
13 such period; and

14 (II) each such annual increase is  
15 a substantially similar amount, to the  
16 extent practicable.

17 (C) REDUCTION BECAUSE OF REDUCED  
18 CLAIMS-PAYING CAPACITY.—

19 (i) AUTHORITY.—Notwithstanding  
20 subparagraphs (A), (B), and (C) or the  
21 terms contained in a contract for reinsur-  
22 ance pursuant to such subparagraphs, if  
23 the Secretary determines that the claims-  
24 paying capacity of an eligible State pro-  
25 gram has been reduced because of payment

1 for losses due to an event, the Secretary  
2 may reduce the minimum level of retained  
3 losses.

4 (ii) TERM OF REDUCTION.—The Sec-  
5 retary may extend the 5-year period for  
6 not more than 5 additional one-year peri-  
7 ods if the Secretary determines that losses  
8 incurred by the State program as a result  
9 of covered perils create excessive hardship  
10 on the State program. The Secretary shall  
11 consult with the appropriate officials of the  
12 State program regarding the required  
13 schedule and any potential one-year exten-  
14 sions.

15 (D) CLAIMS-PAYING CAPACITY.—For pur-  
16 poses of this paragraph, the claims-paying ca-  
17 pacity of a State-operated insurance or reinsur-  
18 ance program under section 406(a)(1) shall be  
19 determined by the Secretary, in consultation  
20 with the Commission, taking into consideration  
21 the claims-paying capacity as determined by the  
22 State program, retained losses to private insur-  
23 ers in the State in an amount assigned by the  
24 State insurance commissioner, the cash surplus  
25 of the program, and the lines of credit, reinsur-

1           ance, and other financing mechanisms of the  
2           program established by law.

3           (2) INITIAL ADJUSTMENT BASED ON PRIVATE  
4           MARKET.—The Secretary may, before making con-  
5           tracts for reinsurance coverage under this title ini-  
6           tially available under section 406, raise the min-  
7           imum level of retained losses from the amount re-  
8           quired under paragraph (1) for an eligible State pro-  
9           gram to ensure, as determined by the Secretary,  
10          that such contracts comply with the principle under  
11          section 403(c)(1).

12          (c) 90 PERCENT COVERAGE OF INSURED LOSSES IN  
13          EXCESS OF RETAINED LOSSES.—Each contract for rein-  
14          surance coverage under this title for a covered purchaser  
15          shall provide that the amount paid out under the contract  
16          shall, subject to subsection (d), be equal to 90 percent of  
17          the amount of insured losses of the eligible State program  
18          of the purchaser in excess of the amount of retained losses  
19          that the contract requires, pursuant to subsection (b), to  
20          be incurred by such program.

21          (d) MAXIMUM FEDERAL LIABILITY.—

22               (1) IN GENERAL.—Notwithstanding any other  
23          provision of law, the Secretary may sell only con-  
24          tracts for reinsurance coverage under this title in

1 various amounts that comply with the following re-  
2 quirements:

3 (A) ESTIMATE OF AGGREGATE LIABIL-  
4 ITY.—The aggregate liability for payment of  
5 claims under all such contracts in any single  
6 year is unlikely to exceed \$200,000,000,000 (as  
7 such amount is adjusted under paragraph (2)).

8 (B) ELIGIBLE LOSS COVERAGE SOLD.—El-  
9 igible losses covered by all contracts sold within  
10 a State during a 12-month period do not exceed  
11 the difference between the following amounts  
12 (each of which shall be determined by the Sec-  
13 retary in consultation with the Commission):

14 (i) The amount equal to the eligible  
15 loss projected to be incurred once every  
16 500 years from a single event in the State.

17 (ii) The amount equal to the eligible  
18 loss projected to be incurred once every  
19 200 years from a single event in the State.

20 (2) ANNUAL ADJUSTMENTS.—The Secretary  
21 shall annually adjust the amount under paragraph  
22 (1)(A) (as it may have been previously adjusted) to  
23 provide for inflation in accordance with an inflation  
24 index that the Secretary determines to be appro-  
25 priate.

1 **SEC. 408. CONSUMER HURRICANE, EARTHQUAKE, LOSS**  
2 **PROTECTION (HELP) FUND.**

3 (a) ESTABLISHMENT.—There is established within  
4 the Treasury of the United States a fund to be known  
5 as the Consumer HELP Fund (in this section referred  
6 to as the “Fund”).

7 (b) CREDITS.—The Fund shall be credited with—

8 (1) amounts received annually from the sale of  
9 contracts for reinsurance coverage under this title;

10 (2) any amounts borrowed under subsection  
11 (d);

12 (3) any amounts earned on investments of the  
13 Fund pursuant to subsection (e); and

14 (4) such other amounts as may be credited to  
15 the Fund.

16 (c) USES.—Amounts in the Fund shall be available  
17 to the Secretary only for the following purposes:

18 (1) CONTRACT PAYMENTS.—For payments to  
19 covered purchasers under contracts for reinsurance  
20 coverage for eligible losses under such contracts.

21 (2) COMMISSION COSTS.—To pay for the oper-  
22 ating costs of the Commission.

23 (3) ADMINISTRATIVE EXPENSES.—To pay for  
24 the administrative expenses incurred by the Sec-  
25 retary in carrying out the reinsurance program  
26 under this title.



1           (4) TERMINATION.—Upon termination under  
2           section 411, as provided in such section.

3           (d) BORROWING.—

4           (1) AUTHORITY.—To the extent that the  
5           amounts in the Fund are insufficient to pay claims  
6           and expenses under subsection (c), the Secretary  
7           may issue such obligations of the Fund as may be  
8           necessary to cover the insufficiency and shall pur-  
9           chase any such obligations issued.

10          (2) PUBLIC DEBT TRANSACTION.—For the pur-  
11          pose of purchasing any such obligations, the Sec-  
12          retary may use as a public debt transaction the pro-  
13          ceeds from the sale of any securities issued under  
14          chapter 31 of title 31, United States Code, and the  
15          purposes for which securities are issued under such  
16          chapter are hereby extended to include any purchase  
17          by the Secretary of such obligations under this sub-  
18          section.

19          (3) CHARACTERISTICS OF OBLIGATIONS.—Obli-  
20          gations issued under this subsection shall be in such  
21          forms and denominations, bear such maturities, bear  
22          interest at such rate, and be subject to such other  
23          terms and conditions, as the Secretary shall deter-  
24          mine.

1           (4) TREATMENT.—All redemptions, purchases,  
2           and sales by the Secretary of obligations under this  
3           subsection shall be treated as public debt trans-  
4           actions of the United States.

5           (5) REPAYMENT.—Any obligations issued under  
6           this subsection shall be repaid including interest,  
7           from the Fund and shall be recouped from pre-  
8           miums charged for reinsurance coverage provided  
9           under this title.

10          (e) INVESTMENT.—If the Secretary determines that  
11          the amounts in the Fund are in excess of current needs,  
12          the Secretary may invest such amounts as the Secretary  
13          considers advisable in obligations issued or guaranteed by  
14          the United States.

15          (f) PROHIBITION OF FEDERAL FUNDS.—Except for  
16          amounts made available pursuant to subsection (d) and  
17          section 402(h), no further Federal funds shall be author-  
18          ized or appropriated for the Fund or for carrying out the  
19          reinsurance program under this title.

20       **SEC. 409. DEFINITIONS.**

21          For purposes of this title, the following definitions  
22          shall apply:

23               (1) COMMISSION.—The term “Commission”  
24          means the National Commission on Catastrophe

1 Risks and Insurance Loss Costs established under  
2 section 402.

3 (2) COVERED PERILS.—The term “covered per-  
4 ils” means the natural disaster perils under section  
5 405.

6 (3) COVERED PURCHASER.—The term “covered  
7 purchaser” means an eligible State-operated insur-  
8 ance or reinsurance program that purchases reinsur-  
9 ance coverage made available under a contract under  
10 section 406.

11 (4) DISASTER AREA.—The term “disaster area”  
12 means a geographical area, with respect to which—

13 (A) a covered peril specified in section 405  
14 has occurred; and

15 (B) a declaration that a major disaster ex-  
16 ists, as a result of the occurrence of such  
17 peril—

18 (i) has been made by the President of  
19 the United States; and

20 (ii) is in effect.

21 (5) ELIGIBLE LOSSES.—The term “eligible  
22 losses” means, with respect to a contract for rein-  
23 surance coverage made available under this title for  
24 a covered purchaser, the insured losses of the cov-  
25 ered purchaser that exceed the amount of retained

1 losses that the contract requires, pursuant to section  
2 407(b), to be incurred by the eligible State program  
3 of such purchaser, as defined by the Secretary after  
4 consultation with the Commission.

5 (6) ELIGIBLE STATE PROGRAM.—The term “eli-  
6 gible State program” means a State program that,  
7 pursuant to section 406(a), is eligible to purchase  
8 reinsurance coverage made available through con-  
9 tracts under section 406, or a multi-State program  
10 that is eligible to purchase such coverage pursuant  
11 to section 406(c).

12 (7) INSURED LOSS.—The term “insured loss”  
13 means, with respect to contract for reinsurance cov-  
14 erage made available under this title for a covered  
15 purchaser, any loss resulting from a covered peril  
16 that is covered by insurance or reinsurance made  
17 available under the eligible State program of the  
18 covered purchaser.

19 (8) PRICE GOUGING.—The term “price  
20 gouging” means the providing of any consumer good  
21 or service by a supplier related to repair or restora-  
22 tion of property damaged from a catastrophe for a  
23 price that the supplier knows or has reason to know  
24 is greater, by at least the percentage set forth in a  
25 State law or regulation prohibiting such act (not-

1       withstanding any real cost increase due to any at-  
2       tendant business risk and other reasonable expenses  
3       that result from the major catastrophe involved),  
4       than the price charged by the supplier for such con-  
5       sumer good or service immediately before the dis-  
6       aster.

7           (9) QUALIFIED LINES.—The term “qualified  
8       lines” means lines of insurance coverage for which  
9       losses are covered under section 404 by reinsurance  
10      coverage under this title.

11          (10) REINSURANCE COVERAGE.—The term “re-  
12      insurance coverage under this title” means coverage  
13      under contracts made available under section 406.

14          (11) SECRETARY.—The term “Secretary”  
15      means the Secretary of the Treasury.

16          (12) STATE.—The term “State” means the  
17      States of the United States, the District of Colum-  
18      bia, the Commonwealth of Puerto Rico, the Com-  
19      monwealth of the Northern Mariana Islands, Guam,  
20      the Virgin Islands, American Samoa, and any other  
21      territory or possession of the United States.

22   **SEC. 410. REGULATIONS.**

23      The Secretary, in consultation with the Secretary of  
24      the Department of Homeland Security, shall issue any

1 regulations necessary to carry out the program for rein-  
2 surance coverage under this title.

3 **SEC. 411. TERMINATION.**

4 (a) IN GENERAL.—Except as provided in subsection  
5 (b), the Secretary may not provide any reinsurance cov-  
6 erage under this title covering any period after the expira-  
7 tion of the 20-year period beginning on the date of the  
8 enactment of this Act.

9 (b) EXTENSION.—If upon the expiration of the period  
10 under subsection (a) the Secretary, in consultation with  
11 the Commission, determines that continuation of the pro-  
12 gram for reinsurance coverage under this title is necessary  
13 or appropriate to carry out the purpose of the program  
14 under section 403(b) because of insufficient growth of ca-  
15 pacity in the private homeowners' insurance market, the  
16 Secretary shall continue to provide reinsurance coverage  
17 under this title until the expiration of the 5-year period  
18 beginning upon the expiration of the period under sub-  
19 section (a).

20 (c) REPEAL.—Effective upon the date that reinsur-  
21 ance coverage under this title is no longer available or in  
22 force pursuant to subsection (a) or (b), this title (except  
23 for this section) is repealed.

24 (d) DEFICIT REDUCTION.—The Secretary shall cover  
25 into the General Fund of the Treasury any amounts re-

1 maining in the Fund under section 408 upon the repeal  
2 of this title under subsection (c).

3 **SEC. 412. GAO STUDY OF THE NATIONAL FLOOD INSUR-**  
4 **ANCE PROGRAM AND HURRICANE-RELATED**  
5 **FLOODING.**

6 (a) IN GENERAL.—In light of the flooding associated  
7 with Hurricane Katrina, the Comptroller General of the  
8 United States shall conduct a study of the availability and  
9 adequacy of flood insurance coverage for losses to resi-  
10 dences and other properties caused by hurricane-related  
11 flooding.

12 (b) CONTENTS.—The study under this section shall  
13 determine and analyze—

14 (1) the frequency and severity of hurricane-re-  
15 lated flooding during the last 20 years in comparison  
16 with flooding that is not hurricane-related;

17 (2) the differences between the risks of flood-re-  
18 lated losses to properties located within the 100-year  
19 floodplain and those located outside of such flood-  
20 plain;

21 (3) the extent to which insurance coverage re-  
22 ferred to in subsection (a) is available for properties  
23 not located within the 100-year floodplain;

1           (4) the advantages and disadvantages of mak-  
2           ing such coverage for such properties available under  
3           the national flood insurance program;

4           (5) appropriate methods for establishing pre-  
5           miums for insurance coverage under such program  
6           for such properties that, based on accepted actuarial  
7           and rate making principles, cover the full costs of  
8           providing such coverage;

9           (6) appropriate eligibility criteria for making  
10          flood insurance coverage under such program avail-  
11          able for properties that are not located within the  
12          100-year floodplain or within a community partici-  
13          pating in the national flood insurance program;

14          (7) the appropriateness of the existing  
15          deductibles for all properties eligible for insurance  
16          coverage under the national flood insurance pro-  
17          gram, including the standard and variable  
18          deductibles for pre-FIRM and post-FIRM prop-  
19          erties, and whether a broader range of deductibles  
20          should be established;

21          (8) income levels of policyholders of insurance  
22          made available under the national flood insurance  
23          program whose properties are pre-FIRM subsidized  
24          properties;



1           (9) how the national flood program is marketed,  
2       if changes can be made so that more people are  
3       aware of flood coverage, and how take-up rates may  
4       be improved;

5           (10) the number of homes that are not primary  
6       residences that are insured under the national flood  
7       insurance program and are pre-FIRM subsidized  
8       properties; and

9           (11) suggestions and means on how the pro-  
10      gram under this title can better meet its stated goals  
11      as well as the feasibility of expanding the NFIP to  
12      cover the perils covered by this title.

13       (c) CONSULTATION WITH FEMA.—In conducting  
14   the study under this section, the Comptroller General shall  
15   consult with the Director of the Federal Emergency Man-  
16   agement Agency.

17       (d) REPORT.—The Comptroller General shall com-  
18   plete the study under this section and submit a report to  
19   the Congress regarding the findings of the study not later  
20   than 5 months after the date of the enactment of this Act.